

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

CHRISTOPHER IWANICKI,)	
)	Civil Action No. 17-486
Petitioner,)	
)	District Judge David S. Cercone
v.)	Magistrate Judge Lisa Pupo Lenihan
)	
LEO DUNN and ROBERT D.)	ECF No. 31
GILMORE,)	
)	
Respondents.)	

MEMORANDUM ORDER

Pending before the court is a Motion for Recusal of the undersigned Magistrate Judge. (ECF No. 31.) Petitioner argues that the undersigned granted Respondents a second extension of time to respond to his Petition for Writ of Habeas Corpus. He states that he has objected to attorney Manning filing documents with the court because he holds no office mandated by either the U.S. or Pennsylvania constitution yet the undersigned allows him to file pleadings. Finally, the undersigned has committed “constitutional malfeasance” by allowing Petitioner to remain in jail


The statute at issue provides, in relevant part, that a judge “shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned” or “[w]here he has a personal bias or prejudice concerning a party” 28 U.S.C. § 455(a) and (b)(1), respectively.

A delay of four-and-a-half months in ruling on a Petition for Writ of Habeas Corpus is not a ground for recusal. *See U.S. v. Briggs*, 2007 WL 1364682, at *3 (D. Idaho May 7, 2007)

(citing Baldyga v. United States, 337 F.Supp.2d 264, 269-70 (D.C. Mass. 2004) (delay of more than one year in ruling on petition for habeas corpus relief was “inordinate and regrettable,” but did not constitute grounds for recusal)). Unfortunately, due to the large number of habeas corpus petitions currently ending in this court and before the undersigned, and the fact that this court currently has four unfilled vacancies, contributing to its overall workload, it is unlikely that the court will be in a position to give this Petition the research and attention it deserves for some time. As to Attorney Manning, he is duly licensed to practice law in the Commonwealth and Petitioner’s objections to him are unfounded. Moreover, the undersigned can say unequivocally that she has absolutely no prejudice or bias against Petitioner. As there is no basis for recusal in this matter,

IT IS HEREBY ORDERED this 23rd day of June, 2017, that Petitioner’s Motion for Recusal (ECF No. 31) is **DENIED**.

In accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1)(A), and Rule 72.C.2 of the Local Rules of Court, the parties are allowed fourteen (14) days from the date of issuance of this Order to file an appeal to the District Judge, which includes the basis for objection to this Order. Any party opposing the appeal shall have fourteen (14) days from the date of service of the notice of appeal to respond thereto. Failure to file a timely notice of appeal will constitute a waiver of any appellate rights.



Lisa Pupo Lenihan
United States Magistrate Judge

cc: **CHRISTOPHER IWANICKI**
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